IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL No.1480 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/09/2004 in WP No.15049 of 2004 on the file of the High Court.)

Between:

1. Grameena Vikasa Samstha, Ananthapur, Registered

Educational Society, rep. by President its
B.N. Reddy S/o B. Narasimha Reddy, aged 36 years.

2. Shanthi Professional Educational Society,
Door No.54-11-44, Adityanagar,

Visakhapatnam, rep. by
President N. Ashok Kumar, S/o Adinarayana,

Aged 44 years

..... APPELLANTS

AND

1. The Secretary to Government,

Health, Medical and Family Welfare,

Government of A.P., Secretariat
Buildings, Hyderabad

2. The Director of Medical Education/President,

A.P. Nursing and Midwifes Council,
Sultan Bazar, Hyderabad

.....RESPONDENTS

Counsel for the Appellant : Sri Pamulety Vaddi

Counsel for the Respondents : Govt. Pleader for Medical Health & Family Welfare

The Court made the following :

JUDGMENT: (Per Hon'ble the Chief Justice)

Writ Petition of the appellants was disposed of on the ground that unless a notification is issued by the respondents, appellants are not entitled to seek direction for supplying application forms enabling them to establish the colleges. Since respondents have not yet issued any notification, there was no question of issuing any direction to respondents for supplying application forms.

Appeal is preferred against the order of learned single Judge disposing of the writ petition. Learned single Judge had
in fact directed that in the event of issuance of a notification specifying the need for establishing the School of Nursing at Anantapur and Visakhapatnam, respondents shall consider the request of petitioners – appellants for issuance of application forms.

Learned counsel for the appellants submits that Indian Nursing Council, New Delhi, has issued a notification as regards events calender to consider proposals for the year
2005-2006 for starting Nursing Colleges/Schools. Applications have been invited in prescribed proforma with required documents, which include Essentiality Certificate. It is urged that in the absence of application forms being supplied by the respondents, it is not possible for the petitioners–appellants to submit applications for starting Nursing Schools/Colleges. Reference was also made to an order passed by learned single Judge in W.P.No.8508 of 2004 wherein direction was issued to the respondents for supplying application form. Learned single Judge in the said writ petition followed similar orders passed in W.A.No.2220 of 2003 dated

23-12-2003.

We have gone through the orders in question. As a matter of fact, the stand of respondents is that only on issuance of notification inviting applications from interested private educational societies for conducting of various para-medical courses in the Nursing Schools/Colleges, the applications are supplied. Such application forms are not supplied as and when the parties wish to obtain the same. It is also stated that earlier notification was issued in which date of issuance of application forms was fixed between 1st April, 2004 and 30th April, 2004 and the appellants approached the then Selection Committee for starting para-medical institutions after expiry of one month. Therefore, there was no occasion for supplying the application forms to the appellants. Application was supplied to Maheswari Educational Society, Hyderabad, pursuant to the order passed by the learned single Judge in W.P.No.8508 of 2004. Reference has been made to G.O.Ms.No.313 Health, Medical and Family Welfare (M2) Department dated 16-08-1997 more particularly Rule 12 therein. While referring to the said Rule, it is stated that on 20-08-2004, first respondent issued orders vide G.O.Ms.No.256 Health, Medical and Family Welfare (K2) Department dated 20-08-2004 to the effect that the Director of Medical Education in the capacity of Ex-Officio President of A.P. Nursing Council will prepare an appropriate proforma for application form for Essentiality Certificate and price of the application form was fixed at Rs.5,000/-. Only after completion of the process, there is possibility of issuing notification calling upon the applications for establishment of new institutions for conducting para-medical courses in Nursing Schools/Colleges. Till such notification is issued, there is no scope for issuing applications merely at the whims and fancies of the parties.

In order to seek directions from the Court directing the respondents to supply application forms, petitioners – appellants must satisfy that as of right, they are entitled to the application forms as and when asked for by them and not when notification is issued specifying time and date for supplying such application forms. In the absence of any right in favour of appellants, we see no legal justification in allowing the appeal and are of the view that learned single Judge was justified in granting direction that as and when notification is issued, respondents will supply necessary application forms to the petitioners – appellants on making deposit of requisite fees.

Writ Appeal is thus disposed of.

_____

DEVINDER GUPTA, C.J.

_____

C.V.RAMULU, J.

27-10-2004

bsc

To

1. The Secretary to Government,

Health, Medical and Family Welfare,

Government of A.P., Secretariat
Buildings, Hyderabad

2. The Director of Medical Education/President,

A.P. Nursing and Midwifes Council,
Sultan Bazar, Hyderabad

3 . 2 CCs to Govt. Pleader for Medical Health & Family Welfare, High Court of A.P. buildings, Hyderabad (OUT)

4. 2 CD copies

*Form-NIC-OGS/WA {**TRT**}*